

HOLLAND & KNIGHT LLP
Vince Farhat (SBN 183794)
vince.farhat@hklaw.com
Kristina S. Azlin (SBN 235238)
kristina.azlin@hklaw.com
400 South Hope Street, 8th Floor
Los Angeles, California 90071
Telephone 213.896.2400
Facsimile 213.896.2450

Jose A. Casal (*pro hac vice*)
jose.casal@hklaw.com
Mitchell E. Herr (*pro hac vice*)
mitchell.herr@hklaw.com
701 Brickell Avenue, Suite 3300
Miami, Florida 33131
Telephone 305.789.7736

*Attorneys for Josias Dewey, Court-appointed
Receiver for Receivership Entities*

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

TITANIUM BLOCKCHAIN
INFRASTRUCTURE SERVICES,
INC.; EHI INTERNETWORK AND
SYSTEMS MANAGEMENT, INC.
aka EHI-INSM, INC.; and MICHAEL
ALAN STOLLERY aka MICHAEL
STOLLAIRE,

Defendants.

Case No. 18-4315 DSF (JPRx)

**FIRST INTERIM FEE APPLICATION
OF HOLLAND & KNIGHT LLP, AS
COUNSEL TO RECEIVER, FOR
ALLOWANCE OF COMPENSATION
AND REIMBURSEMENT OF
EXPENSES; CERTIFICATION OF
COUNSEL IN SUPPORT THEREOF;
[PROPOSED] ORDER**

[FRCP 66; L.R. 66-7]

Date: Mon., April 1, 2019
Time: 1:30 pm
Ctrm: 7D
Judge: Hon. Dale S. Fischer

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on Monday, April 1, 2019, at 1:30 p.m., or as soon
 3 thereafter as the matter may be heard before the Honorable Dale S. Fischer, in Courtroom
 4 7D of the United States District Court, Central District of California, Western Division,
 5 350 West 1st Street, 6th Floor, Los Angeles, California, 90012, Holland & Knight LLP
 6 (“Counsel” or “H&K”), counsel to Josias Dewey, as Court-appointed Receiver (the
 7 “Receiver”) for the estates of Defendant Titanium Blockchain Infrastructure Services, Inc.
 8 and its subsidiaries and/or affiliates (collectively, the “Receivership Entities”), will and
 9 hereby does submit this first interim fee application (the “Application”).

10 This Application is submitted pursuant to paragraphs XI(F) and XVII of this Court’s
 11 Order Appointing Permanent Receiver, entered May 30, 2018 (the “Permanent
 12 Receivership Order”), Rule 66 of the Federal Rules of Civil Procedure, and Local Rule
 13 66-7. This Application is made following the conference of counsel pursuant to Local
 14 Rule 7-3 which took place on and before Friday, February 15, 2019.

15 This Application is based upon this Notice of Application and Application, the
 16 attached Memorandum of Points and Authorities and Certification of Counsel, all papers
 17 and records on file herein, and such other matters as may be presented to the Court at or
 18 before the hearing on this Application.

19
 20 Dated: February 28, 2019

Respectfully submitted,

21 /s/ Jose Casal

22 Jose Casal (*pro hac vice*)

23 Kristina S. Azlin (SBN 235238)

Holland & Knight LLP

24 Counsel for Josias N. Dewey, Court-appointed
 25 permanent receiver for Defendant Titanium
 26 Blockchain Infrastructure Services, Inc.

27 *Attorneys for Josias Dewey, Court-appointed*
 28 *Receiver for Receivership Entities*

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FIRST INTERIM FEE APPLICATION OF HOLLAND & KNIGHT LLP,
AS COUNSEL TO RECEIVER, FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES

Pursuant to paragraphs XI(F) and XVII of this Court’s Order Appointing Permanent Receiver, entered May 30, 2018 (the “Permanent Receivership Order”), Rule 66 of the Federal Rules of Civil Procedure, and Local Rule 66-7, Holland & Knight LLP (“Counsel” or “H&K”), counsel to Josias Dewey, as Court-appointed Receiver (the “Receiver”) for the estates of Defendant Titanium Blockchain Infrastructure Services, Inc. and its subsidiaries and/or affiliates (collectively, the “Receivership Entities”), hereby submits this first interim fee application (the “Application”).

In support of this Application, H&K respectfully states the following:

I. SUMMARY OF FEE REQUEST

1. This initial fee application covers the period from the Receiver’s initial appointment on May 23, 2018 through June 22, 2018 (the “First Application Period”) and is submitted in accordance with the Permanent Receivership Order, the Local Rules of this Court, and the Billing Instructions for Receivers in Civil Actions Commenced by the United States Securities and Exchange Commission (the “Billing Instructions”).

2. Through this Application, H&K seeks approval of \$52,828.49 in fees and \$72,171.51¹ in expenses, for a total of \$125,000, pursuant to the fee cap applicable to the first thirty (30) days of the receivership (the “Fee Cap”).²

II. STANDARDIZED FUND ACCOUNTING REPORT

3. Attached as **Exhibit A** is the Standardized Fund Accounting Report (SFAR) for the Receivership Entities for the period from May 30, 2018 through December 31,

¹ These expenses include \$66,451.25 for forensic services rendered by Kroll Cyber Security and invoiced to H&K.

² H&K actually incurred \$144,369.52 in fees and \$72,171.51 in expenses, for a total of \$216,541.03, during the First Application Period, but is limiting this application to \$125,000 pursuant to the Fee Cap. H&K does not intend to make an application for the remaining \$91,541.03 in fees incurred over the Fee Cap.

2018 (the “SFAR Reporting Period”).³

III. CASE STATUS

4. Cash On Hand: The amount of cash on hand in the Receiver’s bank account is \$115,566.70 as of the end of the most recent SFAR Reporting Period (December 31, 2018). These funds were received by (i) taking control of the US Bank bank account held by Titanium Blockchain Infrastructure Services, Inc. (“TBIS”) (\$58,583.45), and (ii) taking control of the JPMorgan Chase bank account held by TBIS (\$252,208.40).

5. Other Assets: In addition to the cash on hand listed above, the Receiver has also taken possession, or has caused third party custodians to freeze, the following assets:

Asset	Units (if applicable)	Unit Value (as of 12/31/2018)	Aggregate Value (as of 12/31/2018)	Unit Value (as of 02/26/2019)	Aggregate Value (as of 02/26/2019)
Bitcoin (BTC)	151.78	\$3,819.740000	\$579,760.14	\$3,848.09	\$584,063.10
Bitcoin Cash (BTH)	95.12103983	\$159.890000	\$15,208.90	\$133.13	\$12,663.46
Bitcoin SV	95.12103983	\$87.450000	\$8,318.33	\$69.14	\$6,576.67
Ether (ETH)	2156.288899	\$136.820000	\$295,023.45	\$136.19	\$293,664.99
Litecoin (LTC)	4972.997747	\$31.340000	\$155,853.75	\$45.40	\$225,774.10
Zcash (ZEC)	7.9046	\$58.600000	\$463.21	\$52.16	\$412.30
Dash (DASH)	66.59959886	\$81.610000	\$5,435.19	\$82.33	\$5,483.14
Electroneum (ETN)	21035513.98	\$0.007486	\$157,471.86	\$0.01	\$146,428.21
Computer equipment, televisions, phones (est)			\$5,000.00		\$5,000.00
		Total	\$1,217,534.83		\$1,275,065.98

6. The Receiver has established multiple cryptocurrency wallets to hold the cryptocurrencies listed above and is either (i) in possession of the private keys associated with these wallets, or (ii) has caused a third party custodian to freeze such assets. Based on values taken from a market aggregator, the value of the cryptocurrency assets is approximately \$1,275,065.98 as of February 27, 2019 and \$1,217,534.83 as of the end of

³ While the First Application Period only includes the first thirty days of the receivership in order to demonstrate compliance with the Fee Cap, the SFAR Reporting Period runs through the end of the most recent quarter, providing a more accurate and complete picture of the current case status.

1 the SFAR Reporting Period (December 31, 2018). This figure should be taken with
2 caution because the value of cryptocurrency assets fluctuates rapidly, and the markets for
3 some cryptocurrencies can be opaque and illiquid, and subject to market manipulation.
4 Furthermore, some assets, like Electroneum (ETN), may constitute unregistered securities,
5 making it difficult, or impossible, for the Receiver to liquidate to fiat currency.

6 7. The Receiver anticipates filing a motion to seek authorization from the Court
7 to liquidate the assets listed above before he files the next status report.

8 8. Expenses: The Receiver has incurred administrative expenses as a result of
9 his efforts to marshal and preserve the assets of the Receivership. For the First Application
10 Period as well as the remainder of the SFAR Reporting Period, these expenses were
11 advanced by H&K and by Kroll, as set forth in attached **Exhibit E**. Lastly, after the
12 Receivership Entities' assets were frozen, several of TBIS's payroll payments, initiated
13 from US Bank, were mistakenly reversed. The Receivership, throughout the SFAR
14 Reporting Period, has worked to compensate those employees and contractors whose
15 payroll payments were mistakenly reversed as well as those employees who assisted the
16 Receiver after the Receivership was established, and, as a result, the Receivership has
17 incurred payroll expenses, and transactional costs related thereto, including wire fees, in
18 the approximate amount of \$195,225.13.

19 9. Creditor Claims: Given that no determination of liability has been made at
20 this time, the Receiver has not promulgated a formal claims procedure or determined the
21 validity of any possible creditor claims. However, the Receiver has established an informal
22 claims process, published on the Receiver's website, through which it has received, and
23 tracked, several hundred inquiries and claims. The Receiver is still evaluating the investor
24 contributions made to TBIS based upon information collected from computers and servers
25 and also from the information provided by people who have contacted the Receiver via its
26 informal claims process. At present, the total number of investor claims is unknown but
27 will likely be in the several thousands.

28 10. The Receiver is working on formulating a creditor claims process, including

1 procedures for (i) confirming the claims received through its informal claims process, (ii)
2 providing notice to potential claimants who have not yet inquired; (ii) receiving and
3 reviewing claims, (iii) recommending to the court procedures for establishing and
4 determining the amount of allowed claims, and (iv) the distribution of allowed claims to
5 investors. To date, the Receiver has not disbursed any funds to any investors and is
6 awaiting confirmation of a determination of liability of the Defendants before disbursing
7 any funds to investors.

8 11. The Receiver has been negotiating with additional third parties, as well as the
9 Defendant, with respect to certain cryptocurrency assets that were transferred from a
10 wallet owned by TBIS to a wallet owned by a third-party and hosted by Coinbase. The
11 cryptocurrency is the property of TBIS and therefore should be transferred to the
12 Receivership. The Receiver has successfully negotiated with all third-parties involved,
13 including Defendant, to enter into a stipulation releasing the cryptocurrency to the
14 Receivership. The Receiver intends to file a written stipulation shortly and anticipates that
15 this issue will be resolved before the hearing date on this Application.

16 12. The Receiver has filed a notice of receivership in all relevant jurisdictions
17 where assets of the Receivership are believed to be located. In addition, as a precaution,
18 the Receiver has filed a notice of receivership in a large number of other jurisdictions.

19 **IV. BACKGROUND**

20 13. On May 22, 2018, the Securities and Exchange Commission filed a complaint
21 against Defendants Titanium, EHI Internetwork and Systems Management, Inc., also
22 known as EHI-INSM, Inc., and Michael Alan Stollery, also known as Michael Stollaire,
23 along with an application for the appointment of a receiver for the Receivership Entities.
24 After reviewing the application, the Court concluded that the appointment of a receiver in
25 this action was necessary and appropriate for the purposes of marshaling and preserving
26 all assets, tangible and intangible, that are owned, controlled or possessed by the
27 Receivership Entities.

28 14. Accordingly, on May 23, 2018, the Court entered the Temporary Restraining

1 Order (the “TRO”) and Orders (1) Freezing Assets; (2) Prohibiting the Destruction or
2 Alteration of Documents; (3) Granting Expedited Discovery; (4) Requiring Accountings;
3 and (5) Appointing a Temporary Receiver (the “Temporary Receivership Order”),
4 appointing Josias N. Dewey as temporary receiver for the Receivership Entities. On May
5 24, 2018, all Defendants were served with the summons, complaint, TRO, and Temporary
6 Receivership Order.

7 15. On May 30, 2018, the Court entered the Permanent Receivership Order
8 (together with the Temporary Receivership Order, collectively, the “Receivership
9 Order”). The Defendants consented to the entry of the Permanent Receivership Order.

10 16. On June 6, 2018, the Court entered orders approving the Receiver’s decision
11 to employ H&K as legal counsel, and Kroll Cyber Security, LLC (“Kroll”) as a forensic
12 and investigative consultant, to assist him in carrying out his duties as the Receiver. H&K
13 and Kroll began working on this matter on or about May 23, 2018.

14 V. SUMMARY OF SERVICES PROVIDED

15 17. H&K has assisted the Receiver with all aspects of his duties in this case
16 during the First Application Period. As set forth in more detail in the Receiver’s Initial
17 Status Report for Receivership Estate of Titanium Blockchain Infrastructure Services,
18 Inc., filed on June 25, 2018 (the “Initial Status Report”), the Receiver and his advisors
19 have focused most of their efforts on investigating, identifying, collecting, and preparing
20 an inventory of assets of the Receivership Entities. The principal assets recovered include
21 cryptocurrency, U.S. currency, electronic data, and physical assets such as computer
22 equipment.

23 18. On May 24, 2018, the Receiver and his legal counsel, together with the
24 assistance of Kroll, were able to seize and search computer equipment, mobile phones and
25 other electronic devices belonging to the Receivership Entities and interview Mr. Stollery
26 and certain of his associates at their offices in Sherman Oaks, California and Springfield,
27 Oregon.

28 19. Through that search and those interviews, the Receiver identified and took

1 control of certain cryptocurrency assets. In addition, the Receiver collected other assets at
2 the Sherman Oaks site and from an office site in Springfield, Oregon that had been leased
3 on behalf of Titanium.

4 20. Additional actions in which H&K has assisted the Receiver include, but are
5 not limited to, the following:

- 6 a. Establishing a Receiver website and redirecting the DNS for <http://tbis.io>, email
7 address (TBISReceiver@gmail.com), so that Titanium's investors and other
8 creditors can receive information pertaining to the receivership;
- 9 b. Identifying cryptocurrency wallets and/or accounts controlled by the
10 Defendants and containing the cryptocurrencies bitcoin, Bitcoin Cash, Ether,
11 Litecoin, Dash, Electroneum, ZCash, BAR and TBAR, and either transferring
12 the cryptocurrency to wallets controlled by the Receiver or causing third party
13 custodial agents to freeze such accounts;
- 14 c. Taking control of Titanium's U.S. Bank account and having the entire account
15 balance transferred to an account established by the Receiver;
- 16 d. Taking control of Titanium's Chase Bank account and requesting that the entire
17 account balance be transferred to an account established by the Receiver;
- 18 e. Securing access to Mr. Stollery's safe deposit box and the retrieval of relevant
19 information and assets from same;
- 20 f. Reviewing Titanium's provisional patent application and GitLab account, and
21 conducting telephone interviews with Titanium's chief technology officer, to
22 evaluate the current value of intellectual property and Titanium as a going
23 concern;
- 24 g. Engaging Kroll to inventory and image computers and phones collected from
25 Titanium's offices in Sherman Oaks, California, and Springfield, Oregon;
- 26 h. Interviewing Titanium's chief operating officer regarding business operations
27 and matters pertaining to theft of virtual currencies from the Defendant
28 Titanium;

- i. Obtaining information from special agents with the Secret Service and Federal Bureau of Investigations regarding the theft of virtual currencies from the Defendant Titanium;
- j. Securing personal property owned or leased by Titanium at both of its offices;
- k. Changing the locks at both commercial offices of the Defendant Titanium;
- l. Negotiating with commercial landlords to secure the termination of Titanium's leases;
- m. Serving written notices on cryptocurrency exchanges and other third parties to locate additional assets, including certain overseas exchanges;
- n. Analyzing payroll and employment matters, including status of employment tax payments; and
- o. Terminating the employment of employees of Defendant Titanium.

21. Each of these tasks was reasonably necessary to identify and secure assets of the Receivership and to work on identifying additional assets for recovery.

VI. FEE APPLICATION

22. During the First Application Period, H&K professionals have provided services to the Receiver for the benefit of the Receivership Entities with a value of \$144,369.52, and incurred reimbursable expenses in the amount of \$72,171.51,⁴ for a total of \$216,541.03 in actual fees and expenses. Pursuant to paragraph XVII of the Permanent Receivership Order, fees and costs for the Receiver and all others retained to assist him in the administration and liquidation of the estate are capped at \$125,000 for the initial 30 days of the receivership. H&K has therefore reduced its fees by \$91,541.03, and through this Application, H&K requests entry of an Order approving the remaining fees in the amount of \$52,828.49, and reimbursable expenses in the amount of \$72,171.50, for a total of \$125,000 (the "Fees") on an interim basis.

⁴ These expenses include \$66,451.25 for forensic services rendered by Kroll and invoiced to H&K.

1 23. This Application is the first fee application that H&K has submitted in this
2 matter. Accordingly, no prior orders have been entered as to any interim applications, no
3 amounts have been allowed or disallowed, and no payments have been made to H&K.

4 24. Through this Application, H&K further requests entry of an Order
5 authorizing the Receiver to make payment to H&K in the amount of \$125,000.

6 25. The names, hours worked, hourly billing rates, and total fees of all H&K
7 professionals who have billed time to this matter, excluding the Receiver, are listed in the
8 attached **Exhibit B**. Standard H&K hourly billing rates have been discounted by 15%.
9 Travel time has been billed at 50% of H&K's standard hourly billing rates in accordance
10 with the Billing Instructions, and those reduced rates have been further discounted by
11 15%. In accordance with the Fee Cap, H&K's actual fees for the First Application Period
12 have been further reduced by \$91,541.03.

13 26. In further accordance with the Billing Instructions, H&K professionals have
14 separately categorized their services by task. The attached **Exhibit C** summarizes the
15 respective number of hours incurred relative to each task category during the First
16 Application Period.

17 27. The services rendered by H&K are itemized fully in the contemporaneously
18 maintained electronic time records attached hereto as **Exhibit D**.

19 28. An itemization of reasonable and reimbursable expenses incurred by H&K at
20 the levels set forth in accordance with the Billing Instructions, including a copy of the
21 Kroll invoice included among those expenses, is attached hereto as **Exhibit E**.

22 **VII. ARGUMENTS AND AUTHORITIES IN**
23 **SUPPORT OF FEE APPLICATION**

24 29. The district court's "power to supervise an equity receivership and to
25 determine the appropriate action to be taken in the administration of the receivership is
26 extremely broad." *S.E.C. v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986). That broad
27 authority "arises out of the fact that most receiverships involve multiple parties and
28

1 complex transactions.” *Id.* ⁵ This “extremely broad” discretion “includes awards of
 2 receivership fees, including attorneys’ fees.” *Securities and Exchange Commission v.*
 3 *Wang*, 2015 WL 12656904, at *3 (C.D. Cal., Feb. 17, 2015, No. CV 13-7553 JAK (SS)),
 4 *citing In re San Vincente Medical Partners Ltd.*, 962 F.2d 1402, 1409 (9th Cir. 1992)
 5 (“The award of receivership fees in an SEC action is analogous to the award of
 6 receivership fees in bankruptcy proceedings, and we review the district court’s award for
 7 an abuse of discretion.”).

8 30. Decisions regarding the timing and amount of an award of fees and costs are
 9 committed to the sound discretion of the Court. *See Drilling & Exploration Corp. v.*
 10 *Webster*, 69 F.2d 416, 418 (9th Cir. 1934) (“The court appointing the receiver has full
 11 power to fix the compensation of such receiver and the compensation of the receiver’s
 12 attorney or attorneys.”); *SEC v. Elliot*, 953 F.2d 1560, 1577 (11th Cir. 1992) (rev’d in part
 13 on other grounds, 998 F.2d 922 (11th Cir. 1993)); *Quilling v. Trade Partners, Inc.*, 572
 14 F.3d 293, 301 (6th Cir. 2009) (“[T]he district court has wide discretion in distributing
 15 receivership assets.”); *Securities and Exchange Commission v. Wang*, 2015 WL
 16 12656904, at *1; *SEC v. Small Business Capital Corp.*, 2014 WL 3920320, at *2 (N.D.
 17 Cal. Aug. 7, 2014).

18 31. An award of interim fees may be appropriate where, like here, a receiver or
 19 the professionals employed by the receiver “regularly devote[] a portion of his time, either
 20 daily or weekly, to the administration of the estate[.]” *In Re McGann Mfg. Co.*, 188 F.2d
 21 110, 112 (3d Cir. 1951) (interim fees to bankruptcy trustee or his counsel).

22 32. In allowing fees, a court should consider “the time, labor and skill required,
 23 but not necessarily that actually expended, in the proper performance of the duties imposed
 24 by the court upon the receiver[], the fair value of such time, labor and skill measured by
 25 conservative business standards, the degree of activity, integrity and dispatch with which
 26 the work is conducted and the result obtained.” *United States v. Code Prods. Corp.*, 362

27
 28 ⁵ *See also Id.* at 1037 (Recognizing that “case law involving district court administration of an
 equity receivership (once the receivership is underway) is sparse...”).

1 F.2d 669, 673 (3d Cir. 1966) (internal quotation marks omitted). In practical terms,
2 receiver and professional compensation thus ultimately rests upon the result of an
3 equitable, multi-factor balancing test involving the “economy of administration, the
4 burden that the estate may be able to bear, the amount of time required, although not
5 necessarily expended, and the overall value of the services to the estate.” *In re Imperial*
6 *400 Nat’l, Inc.*, 432 F.2d 232, 237 (3d Cir. 1970). Regardless of how this balancing test is
7 formulated, no single factor is determinative and “a reasonable fee is based [upon] all
8 circumstances surrounding the receivership.” *SEC v. W.L. Moody & Co.*, Bankers
9 (Unincorporated), 374 F.Supp. 465, 480 (S.D. Tex. 1974). Generally, the starting point is
10 to multiply the number of hours expended by an hourly rate. *Southwestern Media, Inc. v.*
11 *Rau*, 708 F.2d 419, 427 (9th Cir. 1983) (bankruptcy case). The hourly rate is based on the
12 rate the professional would charge for comparable service in other matters. *Id.*

13 33. “As a general rule, the expenses and fees of a receivership are a charge upon
14 the property administered.” *Gaskill v. Gordon*, 27 F.3d 248, 251 (7th Cir. 1994). These
15 expenses include the fees and expenses of the Receiver’s professionals, including H&K.

16 34. In support of the application, H&K submits the above-referenced Exhibits A-
17 D for the Court’s review, along with the Certification of Jose Casal addressing the
18 reasonableness of the rates charged and hours billed by professionals at H&K.

19 35. H&K has charged fees that are 15% less than the standard billing rates for
20 the professionals working on this matter, and those fees are at or below customary fees
21 charged by like professionals in their respective markets. H&K has billed all reimbursable
22 expenses at their actual costs with no mark-up added, and they are not seeking overhead
23 charges. Further, pursuant to the Fee Cap, H&K’s actual fees for the First Application
24 Period have been further reduced by \$91,541.03—which is an additional 63% discount.

25 36. As set forth above and in the Initial Status Report, H&K has assisted the
26 Receiver in performing various tasks that have added value to the Receivership Entities.
27 Each task was staffed and performed as efficiently as possible. The fees and expenses
28

sought in this Application are reasonable and were necessary for the proper administration of the Receiver's duties.

VIII. CONCLUSION

H&K therefore respectfully requests that this Court enter an Order:

- (i) Allowing, on an interim basis, fees in the amount of \$52,828.49 and reimbursement of expenses in the amount of \$72,171.51, for total compensation of \$125,000 pursuant to the Fee Cap;
- (ii) Authorizing and directing the Receiver to make payment to H&K in the amount of \$125,000; and
- (iii) Directing such other and further relief as the Court deems appropriate.

Dated: February 28, 2019

Respectfully submitted,

/s/ Jose Casal

Jose Casal (*pro hac vice*)

Kristina S. Azlin (SBN 235238)

Holland & Knight LLP

Counsel for Josias N. Dewey, Court-appointed
permanent receiver for Defendant Titanium
Blockchain Infrastructure Services, Inc.

*Attorneys for Josias Dewey, Court-appointed
Receiver for Receivership Entities*